

AGRICULTURAL AFFAIRS
ADMINISTRATIVE RULES REVIEW

Table of Contents

2007 Legislative Session

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.06 - Rules Governing the Planting of Beans, (Phaseolus Ssp.), in Idaho

Docket No. ***02-0606-0501***2

02.06.10 - Rules Governing the Potato Cyst Nematode (Globodera pallida)

Docket No. ***02-0610-0601 (New Chapter)***6

AGRICULTURAL AFFAIRS

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.06 - RULES GOVERNING THE PLANTING OF BEANS, (*PHASEOLUS SSP.*), IN IDAHO

DOCKET NO. 02-0606-0501

NOTICE OF RULEMAKING - TEMPORARY RULE

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 1, 2005.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the supporting reasons for temporary rulemaking:

There is less farm ground in Idaho being irrigated under rill irrigation as more is being converted to sprinkler irrigation. The current rules for the planting of kidney and garden beans require a two year history of rill irrigation planting in Idaho prior to a planting under sprinkler irrigation. The proposed changes are to amend IDAPA 02.06.06 Section 200.09.b. to read "All other beans" and eliminate Section 200.09.c. due to the constraints of the planting irrigation history requirement of two years under rill irrigation prior to a planting of one year under sprinkler irrigation. Also, a requirement for serology testing after the planting under sprinkler irrigation will be added.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary change confers a benefit to the Idaho Bean Seed Industry. Unless the rule is amended, Idaho could lose much of its bean seed business.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There is no fee or charge being imposed or increased through this temporary rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620 or Garry West, Program Manager at (208) 736-2195.

DATED this 19th day of April, 2005.

AGRICULTURAL AFFAIRS

DEPARTMENT OF AGRICULTURE
The Planting of Beans, (Phaseolus SSP.)

Docket No. 02-0606-0501
TEMPORARY RULE

Mike Everett
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 790
Boise, Idaho 83701
Phone: (208) 332-8503
Fax: (208) 334-2170

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

200. REQUIREMENTS FOR PLANTING BEAN SEED IN IDAHO.

In order to be eligible for planting bean seed in Idaho: (4-2-03)

01. Idaho Grown Seed. Seeds planted must be from a lot that has an in-state planting tag number (state number) assigned by the Department based on growing season and windrow inspections and be tagged by the Department with a Department In-State Planting Tag (Green tag) or be tagged by the ICIA in accordance with these rules. (4-2-03)

02. Malheur County, Oregon Grown Seed. Bean seed produced in Malheur County, Oregon must be from a lot inspected in the growing season and in the windrow for the regulated pests as defined in Section 012 of these rules and tagged by the Oregon Department of Agriculture. (4-2-03)

03. Imported Seed Grown West of the Continental Divide in the Contiguous United States. Imported bean seed grown west of the Continental Divide in the contiguous United States must: (4-2-03)

a. Be accompanied by a phytosanitary certificate issued by the regulatory agency of the state of origin, listing the diseases for which the crop was inspected, that must include the regulated pests as defined in Section 012 of these rules, and stating that the crop was field and windrow inspected; (4-2-03)

b. Seed lot shall successfully pass laboratory tests conducted by the Department from samples officially drawn in the state of Idaho by the Department; (4-2-03)

c. Must bear a Department approved tag (yellow); (4-2-03)

d. Shall not be planted under sprinkler irrigation; and (4-2-03)

e. Each field planted in Idaho must be submitted for field and windrow inspections. (4-2-03)

04. Imported Seed Grown East of the Continental Divide in the Contiguous United States or of Foreign Origin. Imported bean seed grown east of the Continental Divide in

AGRICULTURAL AFFAIRS

DEPARTMENT OF AGRICULTURE
The Planting of Beans, (*Phaseolus SSP.*)**Docket No. 02-0606-0501**
TEMPORARY RULE

the Contiguous United States or of foreign origin to be planted in Idaho shall be planted only on an approved trial ground as outlined in Section 250. (4-2-03)

05. Idaho Grown Seeds Shipped East of the Continental Divide in the Contiguous United States or to a foreign Country and Returned. Bean seeds shipped east of the Continental Divide in the contiguous United States or to a foreign country may be returned to Idaho but upon return shall be planted on an approved trial ground as outlined in Section 250. (4-2-03)

06. Contaminated Seeds. The seeds from any bean field found or known to be contaminated with a regulated pest, as defined in Section 012 of these rules, shall not be planted in Idaho. (4-2-03)

07. True Identity of Seed Lots. Failure to maintain the true identity of any seed lot intended for seed purposes will automatically disqualify that lot for future planting in Idaho. (4-2-03)

08. Tags. Bean seeds planted in Idaho shall be from an approved lot bearing an approved tag on each bag or container, stating the kind, variety, and lot number. The following is a list of approved planting tags in Idaho: (4-2-03)

- a. Department in-state planting tag (green tag); (4-2-03)
- b. Department approved tag (yellow tag); (4-2-03)
- c. ICIA tag, provided the lot was field and windrow inspected by ICIA in accordance to these rules; or (4-2-03)
- d. Oregon Department of Agriculture inspection tag. (4-2-03)

09. Irrigation. (4-2-03)

a. Pintos, Red Mexicans, Pinks, Great Northerns, Small Whites, Navy Beans, Black Turtles, and Lima beans: (4-2-03)

i. First generation of seed grown in Idaho must be grown and inspected under rill irrigation. (4-2-03)

ii. Thereafter, the seed may be grown and inspected for two (2) consecutive generations in Idaho under sprinkler irrigation. (4-2-03)

iii. Seed grown under sprinkler irrigation for two (2) consecutive generations shall then be grown and inspected for one (1) generation in Idaho under rill irrigation. (4-2-03)

b. ~~Cranberry types, Taylor Horticultural types, and Borlotto types~~ All other beans: (4-2-03)(4-1-05)T

AGRICULTURAL AFFAIRS

DEPARTMENT OF AGRICULTURE
The Planting of Beans, (*Phaseolus SSP.*)**Docket No. 02-0606-0501**
TEMPORARY RULE

i. First generation of seed grown in Idaho must be grown and inspected under rill irrigation. (4-2-03)

ii. Thereafter, the seed may be grown and inspected for one (1) generation in Idaho under sprinkler irrigation. (4-2-03)

iii. ~~To be eligible for a second consecutive planting of seed under sprinkler~~ Any time seed has been grown and inspected for one (1) generation in Idaho under sprinkler irrigation and prior to planting the seed under sprinkler irrigation or rill irrigation in Idaho, the seed must be sampled and laboratory tested by the Department in Idaho and found negative for the regulated pests. (4-2-03)(4-1-05)T

iv. Following ~~the~~ a second consecutive planting of ~~the~~ seed under sprinkler irrigation in Idaho, the seed must be sampled and laboratory tested by the Department in Idaho and found negative for the regulated pests. (4-2-03)(4-1-05)T

v. After meeting the requirements of Subsections 200.09.b.i. through 200.09.b.iv., the seed must be grown and inspected for one (1) generation in Idaho under rill irrigation. (4-2-03)

~~c. All other beans.~~ (4-2-03)

~~i. First two (2) generations of seed grown in Idaho must be grown and inspected under rill irrigation.~~ (4-2-03)

~~ii. Thereafter, the seed may be grown and inspected for one (1) generation in Idaho under sprinkler irrigation.~~ (4-2-03)

~~iii. Following any generation of seed grown under sprinkler irrigation in Idaho, the seed must be grown and inspected for two (2) consecutive generations in Idaho under rill irrigation.~~ (4-2-03)

AGRICULTURAL AFFAIRS

IDAPA 02 - DEPARTMENT OF AGRICULTURE

02.06.10 - RULES GOVERNING THE POTATO CYST NEMATODE (*GLOBODERA PALLIDA*)

DOCKET NO. 02-0610-0601 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

THIS NOTICE WAS PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is **August 28, 2006**.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 22-2013, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

A new chapter, IDAPA 02.06.10 - Rules Governing the Potato Cyst Nematode (*Globodera pallida*), will be promulgated. The rule will specify its purpose, the regulated articles and regulated areas, the restrictions governing regulated articles and conditions governing the movement of regulated articles, inspection and disposition of regulated articles, and the penalties for violation of quarantine rules. This rule will parallel a Federal Order that will be effective concurrently with this rule. Rules must be promulgated to prevent the further introduction and dissemination of Potato Cyst Nematode into other states and areas of Idaho not included in the regulated area as outlined in the rule through the movement of infested plant material, plant products and soil.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) (a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To protect the public health, safety or welfare and to confer a benefit.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There are no fees or charges being imposed through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking does not negatively impact the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Michael E. Cooper or Thomas Dayley at (208) 332-8620.

AGRICULTURAL AFFAIRS

DEPARTMENT OF AGRICULTURE
Rules Governing the Potato Cyst Nematode

Docket No. 02-0610-0601
TEMPORARY RULE (New Chapter)

DATED this 28th day of August, 2006.

Patrick A. Takasugi, Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
PO Box 790
Boise, ID 83701
Telephone: (208) 332-8503
Facsimile: (208) 334-2170

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

IDAPA 02 ***TITLE 06*** ***CHAPTER 10***

02.06.10 - RULES GOVERNING THE POTATO CYST NEMATODE (GLOBODERA PALLIDA)

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 22-2013, Idaho Code. (8-28-06)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.10, “Rules Governing the Potato Cyst Nematode (*Globodera pallida*).” (8-28-06)T

02. Scope. The purpose and goal of this rule is to prevent the spread of Potato Cyst Nematode (*Globodera pallida*) (PCN) throughout Idaho and the United States. (8-28-06)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (8-28-06)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (8-28-06)T

004. INCORPORATION BY REFERENCE.

Copies of these documents may be viewed at the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.10 incorporates by reference: (8-28-06)T

AGRICULTURAL AFFAIRS

DEPARTMENT OF AGRICULTURE
Rules Governing the Potato Cyst Nematode

Docket No. 02-0610-0601
TEMPORARY RULE (New Chapter)

01. USDA APHIS PPQ Treatment Manual Schedule T406-d, Revision 10, September 2006. (8-28-06)T

02. 7 CFR Part 305 – Phytosanitary Treatments, as revised 2006. (8-28-06)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Street Address. The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (8-28-06)T

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-28-06)T

03. Mailing Address. The mailing address for the central office is Idaho State Department of Agriculture, P. O. Box 790, Boise, Idaho 83701-0790. (8-28-06)T

04. Telephone Number. The telephone number of the central office is (208) 332-8500. (8-25-06)T

05. Fax Number. The fax number of the central office is (208) 334-2283. (8-25-06)T

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records and are available for inspection and copying at the department. (8-28-06)T

007. -- 009. (RESERVED).

010. DEFINITIONS AND TERMS.

The Idaho State Department of Agriculture adopts the definitions set forth in Title 22, Chapter 20, Idaho Code. In addition as used in this chapter: (8-28-06)T

01. Certificate. A document, stamp, or imprint by which an inspector affirms that a specified regulated article meets applicable requirements of this subpart and may be moved intrastate or interstate to any destination. (8-28-06)T

02. Farm Equipment. Mechanized cultivating equipment, harvesting equipment, soil-moving equipment, farm tools, crates, boxes, burlap bags, and other farm product equipment or containers. (8-28-06)T

03. Infested Field. Any field in which the presence of PCN is confirmed. (8-28-06)T

04. Inspector. Any employee of ISDA, APHIS, the U.S. Department of Agriculture, or other person authorized by the USDA APHIS Administrator or ISDA Director to perform the duties required under this rule. (8-28-06)T

05. Limited Permit. A document issued by an inspector to allow the intrastate or interstate movement of regulated articles that are ineligible for a certificate but that can be moved

AGRICULTURAL AFFAIRS

DEPARTMENT OF AGRICULTURE
Rules Governing the Potato Cyst Nematode**Docket No. 02-0610-0601**
TEMPORARY RULE (New Chapter)

interstate for limited handling, utilization, or processing when, upon evaluation of the circumstances involved in each specific case the inspector determines that such movement will not result in the spread of PCN. (8-28-06)T

06. Nursery Stock. Plants with roots, plant crowns, roots for propagation, true bulbs, corms, rhizomes, and tubers of ornamental plants, and excluding soil-free aquatic plants. (8-28-06)T

011. ABBREVIATIONS.

01. APHIS. Animal and Plant Health Inspection Service. (8-28-06)T

02. ISDA. Idaho State Department of Agriculture. (8-28-06)T

03. PCN. Potato Cyst Nematode. (8-28-06)T

04. PPQ. Plant Protection and Quarantine. (8-28-06)T

05. USDA. United States Department of Agriculture. (8-28-06)T

012. -- 019. (RESERVED).

020. REGULATED AREAS.

In the State of Idaho, that part of the Township designated by "T 01 N; R 37 E" Boise Meridian, which lies east and south of the Snake River, and in Sections 10 through 36 and any other property found to be infested after the adoption of this rule. (8-28-06)T

021. REGULATED ARTICLES.

The following are regulated articles, and may not be moved intrastate or interstate from a regulated area except in accordance with this Rule: (8-28-06)T

01. Potatoes. (8-28-06)T

02. Nursery Stock. (8-28-06)T

03. Soil, Compost, Humus, Muck, Peat, and Decomposed Manure. (8-28-06)T

04. Grass Sod. (8-28-06)T

05. Small Grains and Soybeans. (8-28-06)T

06. Hay, Straw, Fodder, and Plant Litter. (8-28-06)T

07. Ear Corn, Except Shucked. (8-28-06)T

08. Used Farm Equipment. (8-28-06)T

09. Other Products. Any other products, articles, or means of conveyance of any

AGRICULTURAL AFFAIRS

DEPARTMENT OF AGRICULTURE
Rules Governing the Potato Cyst Nematode**Docket No. 02-0610-0601**
TEMPORARY RULE (New Chapter)

character whatsoever, when it is determined by an inspector that they present a hazard of spread of PCN. (8-28-06)T

022. RESTRICTIONS.

01. Movement From A Non-Regulated Area. Movement of regulated articles from a non-regulated area is subject to inspection by an inspector. Permits and certifications are not required. (8-28-06)T

02. Movement From a Regulated Area. Movement of regulated articles from a regulated area is subject to the provision of Section 02.06.10.023 of this rule. (8-28-06)T

03. Other Restrictions. No potatoes, tomatoes, eggplants or any other known host crops may be planted in the infested fields. Soil must not be moved from the infested fields. Any equipment leaving the infested fields must be sanitized and certified using USDA APHIS approved protocols. (8-28-06)T

04. Seed Potatoes. Seed potatoes may not be grown in the regulated area. (8-28-06)T

023. CONDITIONS FOR INTRASTATE OR INTERSTATE MOVEMENT OF REGULATED ARTICLES.

Regulated articles may only be moved intrastate or interstate from a regulated area by a person under a compliance agreement if accompanied by a certificate or limited permit issued by an inspector. (8-28-06)T

01. Movements Under Certificate. Certificates may be issued by an inspector for the intrastate or interstate movement of the following articles from regulated areas, provided they meet the conditions specified below: (8-28-06)T

a. Potatoes: (8-28-06)T

i. The fields where the potatoes were grown were surveyed by an inspector prior to planting and found to be apparently free of PCN. Certification of freedom from PCN is valid for no more than three (3) years; (8-28-06)T

ii. The potatoes were grown in a field in which no more than one potato crop was grown in the previous three (3) successive years; (8-28-06)T

iii. The potatoes were processed and packed at facilities in accordance with guidelines issued by the USDA APHIS Administrator and posted on the APHIS website; and (8-28-06)T

iv. Seed potatoes from regulated areas are not eligible for movement under certificate. (8-28-06)T

b. The nursery stock must have been grown at a site that has been surveyed by an inspector and found to be apparently free of PCN. (8-28-06)T

c. Soil, compost, humus, muck, peat, decomposed manure, grass sod, small grains

AGRICULTURAL AFFAIRS

DEPARTMENT OF AGRICULTURE
Rules Governing the Potato Cyst Nematode**Docket No. 02-0610-0601**
TEMPORARY RULE (New Chapter)

and soybeans, ear corn (except shucked), hay, straw, fodder, and plant litter must have been grown or located only at sites that have been surveyed by an inspector and found to be apparently free of PCN. (8-28-06)T

d. Before being removed from the field, farm equipment that has been used in any field that is infested with or potentially infested with PCN, or adjacent to such field located in the regulated area must be either: (8-28-06)T

i. Pressure washed to ensure that all soil has been removed; or (8-28-06)T

ii. Steam treated in accordance with USDA APHIS PPQ Treatment Manual schedule T406-d and 7 CFR Part 305. (8-28-06)T

02. Movements under Limited Permit. Limited permits may be issued by an inspector to allow intrastate or interstate movement of regulated articles not eligible for certification under this subpart, to specified destinations for limited handling, utilization, or processing when, upon evaluation of the circumstances involved in each specific case the inspector determines that such movement will not result in the spread of PCN. (8-28-06)T

024. INSPECTION, SAMPLING AND TESTING.

In order to accomplish the purposes of this rule, an inspector may enter upon and inspect any public or private premises, lands, or means of conveyance, or article of any person within this state, for the purpose of inspecting, surveying, sampling, testing, treating, controlling or destroying any soil, plant or plant material thought to or found to contain or be infested with PCN. (8-28-06)T

025. PENALTIES.

Any person violating any of the provisions of these rules will be subject to the penalty provisions of Title 22, Chapter 20, Idaho Code. (8-28-06)T

026. -- 999. (RESERVED).